IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:			
Joseph R. Byrum *et al.*		Art Unit:	1632
Appln. No.:	09/206,040	Examiner:	Scott D. Priebe
Filed:	December 4, 1998	Atty. Docket:	16517.137/ 38-21 (15446)B
For:	Nucleic Acid Molecules and Other Molecules Associated with Plants		

Declaration under 37 C.F.R. § 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, **Vergel C. Concibido**, make the following declaration related to matters that are within my personal knowledge:

1. I am a project leader of the Monsanto Soybean Molecular Breeding Discovery group, where I currently manage the soybean molecular breeding efforts of the company. I am a named inventor on three patent applications and have published in peer review journals. A copy of my resume is attached as Exhibit A.

2. I have reviewed the specification of U.S. Patent Application Serial No. 09/206,040 ("the '040 application"). On page 28, I note that the definition of a polymorphism is "a variation or difference in the sequence of the gene or its flanking regions that arises in some of a species." See the '040 application at page 28. I further note that the application discussed in detail

polymorphisms, methods to detect polymorphisms and the use of polymorphic markers. See the '040 application at pages 28-36.

3. A person reading this disclosure would understand that the claimed nucleic acid sequence could encompass the detection of polymorphisms in species that interbred such as *Glycine max* and *Glycine soja* and that such a use would be well known to a person of ordinary skill in the art.

4. Two varieties of *Glycine max* are more closely related than *Glycine max* is to *Glycine soja*. As such, the frequency of polymorphisms between two *Glycine max* varieties is lower than that between *Glycine max* and *Glycine soja*. Nonetheless, the experiments set forth in Roger Wiegand's declaration demonstrate that a nucleic acid molecule with SEQ ID NO: 1 is capable of hybridizing to *Glycine max* genomic DNA and can be used to screen for the presence or absence of polymorphisms between *Glycine max* varieties.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Vergel C. Concibido

Executed on June 28th, 2004.